

Le, David (AU 3621)

From: Le, David (AU 3621)  
Sent: Monday, April 14, 2003 1:07 PM  
To: 'khkwan2@yahoo.com'  
Subject: RE: Application 09-396005

#83  
4/16/03  
mel



MPEP 502.03 - Internet  
Communi...

Dear Mr Kwan:

I apologize for the delay in responding to this email of yours. For some reason I did not receive the first email, and it took me a little while to get to this one, due to the heavy docket I was working with for the last couple weeks.

In any event, I had not had any request for email or fax transmission of Office Actions before, and wanted to make sure that these were proper. I found out that before I could send legal communications to you via the Internet, you need to file an authorization for the Patent Office to do so. I have attached the relevant section of the MPEP (§ 502.03) to this email for you to review.

After you've reviewed the attached, please let me know if you still want to get the Office Action via email or fax. If you do, I will need you to fax in to me a signed authorization, per the rules recited in the attached MPEP § 502.03 document.

If you have additional questions, please do let me know.

Sincerely,

David Q. Le  
U.S. Patent and Trademark Office  
Tel: 703-305-4567  
Fax: 703-746-8494  
David.Le11@uspto.gov

-----Original Message-----

From: khkwan2@yahoo.com [mailto:khkwan2@yahoo.com]  
Sent: Monday, April 07, 2003 11:24 PM  
To: David.Le11@USPTO.GOV  
Subject: Fwd: RE: Application 09-396005- do not duplicate

Dear David,

Just resending this, in case you have missed or forgotten about this. Thanks

CK

--- Chris Kwan <khkwan2@yahoo.com> wrote:  
> From Chris Kwan Mon Mar 31 18:13:57 2003  
> Received: from [203.106.178.63] by  
> web41403.mail.yahoo.com via HTTP; Mon, 31 Mar 2003  
> 18:13:57 PST  
> Date: Mon, 31 Mar 2003 18:13:57 -0800 (PST)  
> From: Chris Kwan <khkwan2@yahoo.com>  
> Reply-to: chris@smartscape.com  
> Subject: RE: Application 09-396005  
> To: David.Le11@USPTO.GOV  
> In-Reply-To:  
>

<8D41CD9393D61B4193D5892E1C455B6C01123ADD@uspto-is-109.uspto.gov>  
> MIME-Version: 1.0  
> Content-Type: text/plain; charset=us-ascii  
> Content-Length: 2043  
>  
> Dear David,  
>  
> I noticed from PAIR that you have sent a final  
> response to my said application dated 25 March. If  
> it  
> is possible, can you sent me a copy of this response  
> via email or by fax to 1-509-696-4812. I sincerely  
> appreciate your assistance here. Thank you  
>  
> Chris Kwan.  
>  
>

## **Manual of Patent Examining Practice (MPEP) § 502.03**

### **Communications via the Internet**

The Office published a Patent Internet Usage Policy to

- (A) establish a policy for use of the Internet by the Patent Examining Corps and other organizations within the USPTO,
- (B) address use of the Internet to conduct interview-like communications and other forms of formal and informal communications,
- (C) publish guidelines for locating, retrieving, citing, and properly documenting scientific and technical information sources on the Internet,
- (D) inform the public how the USPTO intends to use the Internet, and
- (E) establish a flexible Internet policy framework which can be modified, enhanced, and corrected as the USPTO, the public, and customers learn to use, and subsequently integrate, new and emerging Internet technology into existing business infrastructures and everyday activities to improve the patent application, examining, and granting functions.

See Internet Usage Policy, 64 F.R. 33056 (June 21, 1999). The Articles of the Patent Internet Usage Policy pertinent to communications via electronic mail are summarized below. See MPEP § 904.02(c) for information pertinent to Internet searching, and MPEP § 707.05(e) for information pertaining to the citation of electronic documents. See also MPEP § 713.04 for recordation of e-mail interviews.

#### **CONFIDENTIALITY OF PROPRIETARY INFORMATION (ARTICLE 4)**

If security and confidentiality cannot be attained for a specific use, transaction, or activity, then that specific use, transaction, or activity shall NOT be undertaken/conducted.

All use of the Internet by Patent Organization employees, contractors, and consultants shall be conducted in a manner that ensures compliance with confidentiality requirements in statutes, including 35 U.S.C. 122, and regulations. Where a written authorization is given by the applicant for the USPTO to communicate with the applicant via Internet e-mail, communications via Internet e-mail may be used.

Backup, archiving, and recovery of information sent or received via the Internet is the responsibility of individual users. The OCIO does not, and will not, as a normal practice, provide backup and recovery services for information produced, retrieved, stored, or transmitted to/from the Internet.

#### **COMMUNICATIONS VIA THE INTERNET AND AUTHORIZATION (ARTICLE 5)**

Communications via Internet e-mail are at the discretion of the applicant.

Without a written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A paper copy of such correspondence will be placed in the appropriate patent application.

The following is a sample authorization form which may be used by applicant:

"Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

A written authorization may be withdrawn by filing a signed paper clearly identifying the original authorization. The following is a sample form which may be used by applicant to withdraw the authorization:

"The authorization given on \_\_\_\_\_, to the USPTO to communicate with me via the Internet is hereby withdrawn. I understand that the withdrawal is effective when approved rather than when received."

Where a written authorization is given by the applicant, communications via Internet e-mail, other than those under 35 U.S.C.132 or which otherwise require a signature, may be used. In such case, a printed copy of the Internet e-mail communications MUST be given a paper number, entered into the Patent Application Locating and Monitoring System (PALM) and entered in the patent application file. A reply to an Office action may NOT be communicated by applicant to the USPTO via Internet e-mail. If such a reply is submitted by applicant via Internet e-mail, a paper copy will be placed in the appropriate patent application file with an indication that the reply is NOT ENTERED. USPTO employees are NOT permitted to initiate communications with applicants via Internet e-mail unless there is a written authorization of record in the patent application by the applicant.

All reissue applications are open to public inspection under 37 CFR 1.11(a) and all papers relating to a reexamination proceeding which have been entered of record in the patent or reexamination file are open to public inspection under 37 CFR 1.11(d). USPTO employees are NOT permitted to initiate communications with applicant in a reissue application or a patentee of a reexamination proceeding via Internet e-mail unless written authorization is given by the applicant or patentee.

#### AUTHENTICATION OF SENDER BY A PATENT ORGANIZATION RECIPIENT (ARTICLE 6)

The misrepresentation of a sender's identity (i.e., spoofing) is a known risk when using electronic communications. Therefore, Patent Organization users have an obligation to be aware of this risk and conduct their Internet activities in compliance with established procedures.

Internet e-mail must be initiated by a registered practitioner, or an applicant in a pro se application, and sufficient information must be provided to show representative capacity in compliance with 37 CFR 1.34. Examples of such information include the attorney registration number, attorney docket number, and patent application number.

#### USE OF ELECTRONIC MAIL SERVICES (ARTICLE 7)

Once e-mail correspondence has been received from the applicant, as set forth in Patent Internet Usage Policy Article 4, such correspondence must be responded to appropriately. The Patent Examiner may respond to an applicant's e-mail correspondence by telephone, fax, or other appropriate means.

#### INTERVIEWS (ARTICLE 8)

Internet e-mail shall NOT be used to conduct an exchange of communications similar to those exchanged during telephone or personal interviews unless a written authorization has been given under Patent Internet Usage Policy Article 5 to use Internet e-mail. In such cases, a paper copy of the Internet e-mail contents MUST be made and placed in the patent application file, as required by the Federal Records Act, in the same manner as an Examiner Interview Summary Form is entered.

#### POLICY GUIDANCE AND CLARIFICATIONS (ARTICLE 13)

Within the Patent Organization, any questions regarding Internet usage policy should be directed to the user's immediate supervisor. Non-USPTO personnel should direct their questions to the Office of the Deputy Commissioner for Patent Examination Policy.